



# California Regional Water Quality Control Board

## Los Angeles Region



Linda S. Adams  
Agency Secretary

Recipient of the 2001 Environmental Leadership Award from Keep California Beautiful

Arnold Schwarzenegger  
Governor

320 W. 4th Street, Suite 200, Los Angeles, California 90013  
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: <http://www.waterboards.ca.gov/losangeles>

Mr. John Schock  
Los Angeles County Dept. Beaches & Harbors  
13843 Fiji Way, TR #3  
Marina del Rey, CA 90292

### **WATER QUALITY CERTIFICATION FOR PROPOSED ZUMA CREEK RESTORATION PROJECT (Corps' Project No. 2006-00599-PHT), ZUMA CREEK, CITY OF MALIBU, LOS ANGELES COUNTY (File No. 07-156)**

Dear Mr. Schock:

Regional Board staff has reviewed your request on behalf of the Los Angeles County Department of Beaches & Harbors for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on September 21, 2007.

I hereby issue an order certifying that any discharge from the referenced project will comply with the applicable provisions of sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003 - 0017 - DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges that have received State Water Quality Certification" which requires compliance with all conditions of this Water Quality Certification.

The Applicant shall be liable civilly for any violations of this Certification in accordance with the California Water Code. This Certification does not eliminate the Applicant's responsibility to comply with any other applicable laws, requirements and/or permits.

Should you have questions concerning this Certification action, please contact Valerie Carrillo, Lead, Section 401 Program, at (213) 576-6759.

\_\_\_\_\_  
[Original Signed By]  
Tracy J. Egoscue  
Executive Officer

\_\_\_\_\_  
July 30, 2008  
Date

**California Environmental Protection Agency**



*Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.*

## DISTRIBUTION LIST

John Schock, P.E.  
Halcrow HPA  
6700 E. Pacific Coast Hwy, Ste 180,  
Long Beach, CA 90803

Bil Orme  
State Water Resources Control Board  
Division of Water Quality  
P.O. Box 944213  
Sacramento, CA 94244-2130

Natasha Lohmus  
California Department of Fish and Game  
Streambed Alteration Team  
4949 View Ridge Avenue  
San Diego, CA 92123

Trinh Phuong  
U.S. Army Corps of Engineers  
Regulatory Branch, Los Angeles District  
P.O. Box 532711  
Los Angeles, CA 90053-2325

Eric Raffini (electronic copy)  
U.S. Environmental Protection Agency  
75 Hawthorne St  
San Francisco, CA 94105

Dave Smith  
Supervisor, Wetlands Regulatory Office (WTR-8)  
US EPA, Region 9  
75 Hawthorne St  
San Francisco, CA 94105

Ken Berg  
U.S. Fish and Wildlife Service  
6010 Hidden Valley Road  
Carlsbad, CA 92009

# ATTACHMENT A

## Project Information File No. 07-156

1. Applicant: Los Angeles County Dept. Beaches & Harbors  
13843 Fiji Way, TR #3  
Marina del Rey, CA 90292  
  
Phone: (310) 305-9533 Fax: (310) 306-2594
2. Applicant's Agent: John Schock, P.E.  
Halcrow HPA  
6700 E. Pacific Coast Hwy, Ste 180,  
Long Beach, CA 90803  
  
Phone: (562) 493-8300 Fax: (562) 493-8308
3. Project Name: Zuma Creek Restoration
4. Project Location: Malibu, Los Angeles County

<u>Longitude</u>	<u>Latitude</u>
118° 49' 3.34"W	34° 0' 3.87"N
118° 49' 3.15"W	34° 1' 4.08"N
118° 49' 2.10"W	34° 0' 3.07"N
118° 49' 1.60"W	34° 1' 1.75"N
118° 49' 1.39"W	34° 1' 0.92"N
118° 49' 1.46"W	34° 1' 0.25"N
118° 49' 1.89"W	34° 0' 59.8"N
118° 49' 2.05"W	34° 0' 59.8"N
118° 49' 1.85"W	34° 1' 0.26"N
118° 49' 1.83"W	34° 1' 0.76"N
118° 49' 1.97"W	34° 1' 1.65"N
118° 49' 2.55"W	34° 1' 3.02"N

5. Type of Project: Creek restoration
6. Purpose: The purpose of the proposed project is to restore the Zuma Creek flow line profile back to its former slope when the creek was channelized and the road improved in 1983, whereby allowing the road to stay dry resulting in increased public safety.

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7. Project  
Description:

The Los Angeles County Department of Beaches and Harbors maintains a private road providing primary access for north bound traffic on Pacific Coast Highway to the main entrance of Zuma Beach County Park in Malibu. During the summer, as many as 65,000 vehicles enter on a weekend day. This road passes under the Zuma Creek Bridge (constructed in 1915) on Pacific Coast Highway. Zuma Creek, a natural watercourse, flows southerly along the east side of the road.

This winter higher than normal rainfall resulted in an excessive amount of sand and gravel washing down the creek and depositing in the reach of the creek north and south of the bridge, as well as under the bridge. This flood material covered the access road making it impassable. The objective of this project is to regain access to the county park.

The County removed the flood material from the road, but left enough of the material on the concrete roadway shoulder to contain the creek, leaving the thalweg as much as 2 feet higher than the roadway. Water now leaches through the embankment and keeps the road flooded. In this condition, the flooded road is a vehicle hazard, since algae can grow on the concrete pavement creating a very slippery surface.

It is estimated, on average that about 5 feet of flood material needs to be excavated along a length approximately 700 feet through the creek. This average depth is also substantiated by the amount of material burying an abandoned County stream gage [F53-R] attached to the bridge, which measures 5.7 feet of coverage.

The proposed project consists of excavation within Zuma Creek, in order to provide restoration. The project is to be performed during times of little or no creek flow. It involves excavation of the creek through grubbing vegetation, followed by removal of sediment. The sediment will be hauled to an upland disposal site. Any groundwater or surface water that enters during excavation will be collected by dewatering upstream of the excavation area. The water will then be treated to settle out solids and the clear water will be placed back into the creek at a location immediately downstream of the excavation area. The graded creek slope on the east side will not exceed 2:1 (horizontal or vertical). The west side of the creek is already bounded by a concrete levee, built by Los Angeles County in 1983 which extends the entire length of the proposed excavation and will protect the access

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### Project Information File No. 07-156

road from being undercut by the creek flow.

In lieu of the proposed removal of the riverine sediments in the creek to restore stream flow and prevent water from running over the County access road from the Zuma Beach parking facility, the following alternatives were considered, but found not feasible:

Alternative 1: Abandon the existing access road and construct a new entrance into the Zuma Beach parking lots. This would require signalization and a left turn lane in a northerly direction. However, presently a very large queue of vehicles develops on the access road. This queue would then be transferred on to PCH and would extend a considerable amount of distance up the hill. This alternative is deemed not feasible since it will possibly require increasing the Caltrans right-of-way for highway widening, and increasing traffic congestion in both the north and south bound direction.

Alternative 2: Abandon the existing access road and construct an overpass into the Zuma Beach parking lots. This would require a major improvement project that might require land acquisition to obtain adequate right-of-way to achieve a feasible alignment. This would also take a long amount of time (probably 5 to 10 years) to fund, permit, and develop. Since such a benefit to cost is very unfavorable this alternative is not feasible. There would also most likely be very strong local opposition to the aesthetics for this type of a structure.

Alternative 3: No project. Allow the roadway to continue to flood. Eventual this would require the complete closure and use of the access road due to increased encroachment of sediment onto the roadway and increased flooding. This would result in the existing traffic pattern flowing northward on Pacific Coast Highway (PCH) that access the beach parking lot through this road to make a “U-turn” further north PCH in order to access the parking lots from the south side of PCH. This alternative is deemed not feasible since it will substantially increase traffic congestion and reduce public safety.

In order for the creek to be fully restored, all permitting agencies have agreed that as exotic species removal takes place, they will not be replaced and this will allow for native vegetation to re-establish itself within the creek.

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8. Federal Agency/Permit: U.S. Army Corps of Engineers  
NWP No. 27 (Permit No. 2006-00599-PHT)
9. Other Required Regulatory Approvals: California Department of Fish and Game  
Streambed Alteration Agreement
10. California Environmental Quality Act Compliance: The proposed project is Categorical Exempt from CEQA pursuant to the CEQA Guidelines, Section 15302 (Replacement or Reconstruction).
11. Receiving Water: Dume Creek (Zuma Canyon) (Hydrologic Unit No. 404.36)
12. Designated Beneficial Uses: MUN\*, REC-1, REC-2, WARM, COLD, WILD, RARE, SPWN,  
\*Conditional beneficial use
13. Impacted Waters of the United States: Non-wetland waters (streambed): 0.40 temporary acres (700 linear feet)
14. Dredge Volume: None
15. Related Projects Implemented/to be Implemented by the Applicant: The Applicant has not identified any related projects carried out in the last 5 years or planned for implementation in the next 5 years.
16. Avoidance/Minimization Activities: The Applicant has proposed to implement several Best Management Practices, including, but not limited to, the following:
- Project embankments to be graded to 2:1 (horizontal: vertical) slope to conform to City of Malibu grading requirements.
  - Only rubber tired excavation will be allowed in the creek

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- Excavation will be performed in the dry season.
- Biological monitoring will be required.

17. Proposed  
Compensatory  
Mitigation:

The proposed project is restorative in nature and any temporary impacts associated with the proposed project will be mitigated with the replanting of native vegetation along the channel.

19. Required  
Compensatory  
Mitigation:

The Regional Board recognizes the proposed project as restorative in nature and will not require any additional compensatory mitigation. However, all temporarily impacts associated with the proposed project will be restored, which will include planting with native vegetation within the project areas.

*See Attachment B Conditions of Certifications, Additional Conditions for modifications and additions to the above proposed compensatory mitigation.*

## ATTACHMENT B

### Conditions of Certification File No. 07-156

#### STANDARD CONDITIONS

Pursuant to §3860 of Title 23 of the California Code of Regulations (23 CCR), the following three standard conditions shall apply to this project:

1. This Certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to §13330 of the California Water Code and Article 6 (commencing with 23 CCR §3867).
2. This Certification action is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent Certification application was filed pursuant to 23 CCR Subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. Certification is conditioned upon total payment of any fee required pursuant to 23 CCR Chapter 28 and owed by the Applicant.

#### ADDITIONAL CONDITIONS

Pursuant to 23 CCR §3859(a), the Applicant shall comply with the following additional conditions:

1. The Applicant shall submit to this Regional Board copies of any other final permits and agreements required for this project, including, but not limited to, the U.S. Army Corps of Engineers' (ACOE) Section 404 Permit and the California Department of Fish and Game's (CDFG) Streambed Alteration Agreement. **These documents shall be submitted prior to any discharge to waters of the State.**
2. The Applicant shall adhere to the most stringent conditions indicated with either this certification, the CDFG's Streambed Alteration Agreement, or the ACOE Section 404 Permit.
3. The Applicant shall comply with all water quality objectives, prohibitions, and polices set forth in the *Water Quality Control Plan, Los Angeles Region (1994)*.
4. The Avoidance/Minimization activities proposed by the Applicant as described in Attachment A, No. 15, are incorporated as additional conditions herein.

## **ATTACHMENT B**

### **Conditions of Certification File No. 07-156**

5. The Applicant and all contractors employed by the Applicant shall have copies of this Certification, the approved maintenance plan, and all other regulatory approvals for this project on site at all times so they are familiar with all conditions set forth.
6. Fueling, lubrication, maintenance, operation, and storage of vehicles and equipment shall not result in a discharge or a threatened discharge to waters of the State. At no time shall the Applicant use any vehicle or equipment which leaks any substance that may impact water quality. Staging and storage areas for vehicles and equipment shall be located outside of waters of the State.
7. All excavation, construction, or maintenance activities shall follow best management practices to minimize impacts to water quality and beneficial uses. Dust control activities shall be conducted in such a manner that will not produce downstream runoff.
8. No construction material, spoils, debris, or any other substances associated with this project that may adversely impact water quality standards, shall be located in a manner which may result in a discharge or a threatened discharge to waters of the State. Designated spoil and waste areas shall be visually marked prior to any excavation and/or construction activity, and storage of the materials shall be confined to these areas.
9. All waste and/or dredged material removed shall be relocated to a legal point of disposal if applicable. A legal point of disposal is defined as one for which Waste Discharge Requirements have been established by a California Regional Water Quality Control Board, and is in full compliance therewith. Please contact Rodney Nelson, Land Disposal Unit, at (213) 620-6119 for further information.
10. The Applicant shall implement all necessary control measures to prevent the degradation of water quality from the proposed project in order to maintain compliance with the Basin Plan. The discharge shall meet all effluent limitations and toxic and effluent standards established to comply with the applicable water quality standards and other appropriate requirements, including the provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act. This Certification does not authorize the discharge by the applicant for any other activity than specifically described in the 404 Permit.
11. The discharge shall not: a) degrade surface water communities and populations including vertebrate, invertebrate, and plant species; b) promote the breeding of mosquitoes, gnats, black flies, midges, or other pests; c) alter the color, create visual contrast with the natural appearance, nor cause aesthetically undesirable discoloration of the receiving waters; d) cause formation of sludge deposits; or e) adversely affect any designated beneficial uses.

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12. The Applicant shall allow the Regional Board and its authorized representative entry to the premises, including all mitigation sites, to inspect and undertake any activity to determine compliance with this Certification, or as otherwise authorized by the California Water Code.
13. Application of pesticides must be supervised by a certified applicator and be in conformance with manufacturer's specifications for use. Compounds used must be appropriate to the target species and habitat. All pesticides directed toward aquatic species must be approved by the Regional Board. Pesticide utilization shall be in accordance with State Water Resources Control Board Water Quality Order Nos. 2004-0008-DWQ and 2004-0009-DWQ.
14. The Applicant shall not conduct any construction activities within waters of the State during a rainfall event. The Applicant shall maintain a **five-day (5-day) clear weather forecast** before conducting any operations within waters of the State.
15. Sediment removal at each phase shall not go beyond the extent as defined in the application materials submitted to the Regional Board on September 21, 2007.
16. The grading, stabilization and re-vegetation will be phased to limit the exposed or working face such that the graded area can be stabilized within 24 hours after the first prediction of rain during the 5-day forecast or within 24 hours after final grading of the phased area.
17. The Applicant shall utilize the services of a qualified biologist with expertise in riparian assessments during any vegetation clearing activities. The biologist shall be available on site during construction activities to ensure that all protected areas are marked properly and ensure that no vegetation outside the specified areas is removed. The biologist shall have the authority to stop the work, as necessary, if instructions are not followed. The biologist shall be available upon request from this Regional Board for consultation within 24 hours of request of consultation.
18. No activities shall involve wet excavations (i.e., no excavations shall occur below the seasonal high water table). A minimum **5-foot** buffer zone shall be maintained above the existing groundwater level. If construction or groundwater dewatering is proposed or anticipated, the Applicant shall file a **Report of Waste Discharge** to this Regional Board and obtain any necessary NPDES permits/Waste Discharge Requirements prior to discharging waste. Sufficient time should be allowed to obtain any such permits (generally 180 days). If groundwater is encountered without the benefit of appropriate permits, the Applicant shall cease all activities in the areas where groundwater is present, file a Report of Waste Discharge to this Regional Board, and obtain any necessary permits prior to discharging waste.

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19. All project/maintenance activities not included in this Certification, and which may require a permit, must be reported to the Regional Board for appropriate permitting. Bank stabilization and grading, as well as any other ground disturbances, are subject to restoration and revegetation requirements, and may require additional Certification action.
20. All surface waters, including ponded waters, shall be diverted away from areas undergoing grading, construction, excavation, vegetation removal, and/or any other activity which may result in a discharge to the receiving water. If surface water diversions are anticipated, the Applicant shall develop and submit a **Surface Water Diversion Plan** (plan) to this Regional Board. The plan shall include the proposed method and duration of diversion activities, structure configuration, construction materials, equipment, erosion and sediment controls, and a map or drawing indicating the locations of diversion and discharge points. Contingency measures shall be a part of this plan to address various flow discharge rates. The plan shall be submitted prior to any surface water diversions. If surface flows are present, then upstream and downstream monitoring for the following shall be implemented:
  - pH
  - temperature
  - dissolved oxygen
  - turbidity
  - total suspended solids(TSS)
  - Downstream TSS shall be maintained at ambient levels
  - Where natural turbidity is between 0 and 50 Nephelometric Turbidity Units (NTU), increases shall not exceed 20%. Where natural turbidity is greater than 50 NTU, increases shall not exceed 10%.

Analyses must be performed using approved US Environmental Protection Agency methods, where applicable. These constituents shall be monitored for on a daily basis during the first week of diversion and/or dewatering activities, and then on a weekly basis, thereafter, until the in-stream work is complete.

Results of the analyses shall be submitted to this Regional Board by the 15th day of each subsequent sampling month. A map or drawing indicating the locations of sampling points shall be included with each submittal. Diversion activities shall not result in the degradation of beneficial uses or exceedance of water quality objectives of the receiving waters. Any such violations may result in corrective and/or enforcement actions, including increased monitoring and sample collection.

21. The Applicant shall restore all areas (0.40 acres) of TEMPORARY IMPACTS to waters of the United States and all other areas of temporary disturbance which could result in a discharge or a threatened discharge to waters of the State. Restoration shall include grading of disturbed areas to pre-project contours and revegetation with native species. Restored areas shall be monitored and maintained with native species as necessary for five years. The

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Applicant shall implement all necessary Best Management Practices to control erosion and runoff from areas associated with this project.

22. All open space and mitigation areas shall be placed within a conservation easement to ensure preservation in perpetuity. Documentation of proper easement placement shall be submitted to the Regional Board within one year.
23. The Applicant shall submit to this Regional Board **Annual Monitoring Reports** by **January 1<sup>st</sup> /May 1<sup>st</sup>** of each year for a minimum period of **five (5) years** after planting or until mitigation success has been achieved. The report shall describe in detail all of the project/construction activities performed during the previous year and all restoration and mitigation efforts; including percent survival by plant species and percent cover. This report shall include as a minimum, the following documentation:
  - (a) Color photo documentation of the pre- and post-project and mitigation site conditions;
  - (b) Geographical Positioning System (GPS) coordinates in decimal-degrees format outlining the boundary of the project and mitigation areas;
  - (c) The overall status of project including a detailed schedule of work;
  - (d) Copies of all permits revised as required in Additional Condition 1;
  - (e) Water quality monitoring results (as required) compiled in an easy to interpret format;
  - (f) A certified Statement of “no net loss” of wetlands associated with this project;
  - (g) Discussion of any monitoring activities and exotic plant control efforts; and
  - (h) A certified Statement from the permittee or his/her representative that all conditions of this Certification have been met.
24. Prior to any subsequent maintenance activities within the project areas, including clearing, maintenance by-hand, and/or the application of pesticides, the Applicant shall submit to this Regional Board a NOTIFICATION of any such activity. Notification shall include: (a) the proposed schedule; (b) a description of the condition/capacity; (c) the area of proposed temporary impact within waters of the State; (c) a description of any existing aquatic resources (e.g., wetland/riparian vegetation); and (d) any proposed compensatory mitigation. Notifications must be submitted a minimum of **three (3) weeks** prior to commencing work activities.

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**Conditions of Certification  
File No. 07-156**

- 25. All applications, reports, or information submitted to the Regional Board shall be signed:
  - (a) For corporations, by a principal executive officer at least of the level of vice president or his duly authorized representative, if such representative is responsible for the overall operation of the facility from which discharge originates.
  - (b) For a partnership, by a general partner.
  - (c) For a sole proprietorship, by the proprietor.
  - (d) For a municipal, State, or other public facility, by either a principal executive officer, ranking elected official, or other duly authorized employee.

- 26. Each and any report submitted in accordance with this Certification shall contain the following completed declaration:

“I declare under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who managed the system or those directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Executed on the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_.

\_\_\_\_\_ (Signature)  
\_\_\_\_\_ (Title)”

- 27. All communications regarding this project and submitted to this Regional Board shall identify the Project File Number **07-156**. Submittals shall be sent to the attention of the 401 Certification Unit.
- 28. Any modifications of the proposed project may require submittal of a new Clean Water Act Section 401 Water Quality Certification application and appropriate filing fee.
- 29. Coverage under this Certification may be transferred to the extent the underlying federal permit may legally be transferred and further provided that the Applicant notifies the Executive Officer at least 30 days before the proposed transfer date, and the notice includes a written agreement between the existing and new Applicants containing a specific date of coverage, responsibility for compliance with this Certification, and liability between them.

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### Conditions of Certification File No. 07-156

30. A copy of this Certification shall be kept at the project site during any period while project activities are being conducted, and shall be available upon request to any staff from this Regional Board.
31. The Applicant or their agents shall report any noncompliance. Any such information shall be provided verbally to the Executive Officer within 24 hours from the time the Applicant becomes aware of the circumstances. A written submission shall also be provided within five days of the time the Applicant becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected; the anticipated time it is expected to continue and steps taken or planned to reduce, eliminate and prevent recurrence of the noncompliance. The Executive Officer, or an authorized representative, may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.
32. *Enforcement:*
  - (a) In the event of any violation or threatened violation of the conditions of this Certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under State law. For purposes of section 401(d) of the Clean Water Act, the applicability of any State law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Certification.
  - (b) In response to a suspected violation of any condition of this Certification, the State Water Resources Control Board (SWRCB) or Regional Water Quality Control Board (RWQCB) may require the holder of any permit or license subject to this Certification to furnish, under penalty of perjury, any technical or monitoring reports the SWRCB deems appropriate, provided that the burden, including costs, of the reports shall be a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
  - (c) In response to any violation of the conditions of this Certification, the SWRCB or RWQCB may add to or modify the conditions of this Certification as appropriate to ensure compliance.
33. This Certification shall expire **five (5) years** from date of this Certification. The Applicant may request a renewal of this Certification 180 days prior to its termination, if the project as described has not been completed. Renewals may be granted in five-year (5-year) increments, are subject to additional filing fees and will require Regional Board approval. If

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**Conditions of Certification**

**File No. 07-156**

the Applicant fails to request a renewal prior to the Certification's expiration, then the Applicant shall submit a new application and appropriate filing fees.